

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 1:19CR30-2
(Judge Kleehe)

ANDRE PARRISH,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S AMENDED REPORT AND
RECOMMENDATION CONCERNING PLEA OF GUILTY IN FELONY CASE
[DKT. NO. 75], ACCEPTING GUILTY PLEA, AND SCHEDULING
SENTENCING HEARING

On October 17, 2019, the Defendant, Andre Parrish ("Parrish"), appeared before United States Magistrate Judge Michael J. Aloia and moved for permission to enter a plea of **GUILTY** to Count Three of the Indictment. Parrish stated that he understood that the magistrate judge is not a United States District Judge, and Parrish consented to pleading before the magistrate judge. This Court referred Parrish's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Parrish's statements during the plea hearing, and the Government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Parrish

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was competent to enter a plea, that the plea was freely and voluntarily given, that Parrish was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. The magistrate judge issued an *Amended Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [Dkt. No. 75] finding a factual basis for the plea and recommending that this Court accept Parrish's plea of guilty to Count Three of the Indictment.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. Neither Parrish nor the Government filed objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R [Dkt. No. 75], provisionally **ACCEPTS** Parrish's guilty plea, and **ADJUDGES** him **GUILTY** of the crimes charged in Count Three of the Indictment. Additionally, the Court **DENIES AS MOOT** the magistrate judge's *Report and Recommendation Concerning Plea of Guilty in Felony Case* [Dkt. No. 73].

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Pursuant to Fed. R. Crim. P. 11(c)(3) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it has received and reviewed the presentence investigation report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall undertake a presentence investigation of Parrish, and prepare a presentence investigation report for the Court;

2. The Government and Parrish shall each provide their narrative descriptions of the offense to the Probation Officer by **November 21, 2019**;

3. The presentence investigation report shall be disclosed to Parrish, his counsel, and the Government on or before **January 20, 2020**; however, the Probation Officer shall not disclose any sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence investigation report on or before **February 4, 2020**;

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5. The Office of Probation shall submit the presentence investigation report with addendum to the Court on or before **February 18, 2020**; and

6. Counsel may file any written sentencing memorandum or statements and motions for departure from the Sentencing Guidelines, including the factual basis for the same, on or before **February 18, 2020**.

The magistrate judge remanded Parrish to the custody of the United States Marshals Service.

The Court will conduct the **Sentencing Hearing** for Parrish on **Monday, March 2, 2020, at 12:30 P.M.**, at the **Clarksburg, West Virginia** point of holding court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and all appropriate agencies.

DATED: November 12, 2019

/s/ Thomas S. Klee
THOMAS S. KLEE
UNITED STATES DISTRICT JUDGE